



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2019-0830]

RIN 1625-AA87

Security Zone; Super Bowl 2020, Bayfront Park, Miami, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary security zone over certain navigable waters of Biscayne Bay in connection with Super Bowl 2020 events in Miami, Florida. The temporary security zone is necessary to protect official party, executives, public, and surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature. Anchoring, or remaining within the security zone would be prohibited unless authorized by the Captain of the Port Miami (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2019-0830 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the

“Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call Omar Beceiro, Sector Miami Waterways Management Division, U.S. Coast Guard at 305-535-4317 or by email: Omar.Beceiro@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The City of Miami will be hosting Super Bowl LIV (54) in February 2020. Additionally, several venues and hotels in the City of Miami downtown area will host Super Bowl-related events during the week preceding the Super Bowl, which is scheduled for February 2, 2020. Venues include Bayfront Park, Adrienne Arsht Center for the Performing Arts, and JW Marriott Marquis Hotel. The Coast Guard anticipates these various events will draw large crowds of people, executives, official party, etc. and present a security concern since the venues may be accessed from or are in close proximity to the waterfront, Biscayne Bay. The COTP has determined the ease of waterfront access to the various venues hosting Super Bowl events present a security concern for attendees.

The purpose of this rulemaking is to ensure the security of the public, executives, official party and surrounding waterway from terrorist acts, sabotage or other subversive

acts, accidents, or other causes of a similar nature. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish a temporary security zone to be enforced 24 hours a day beginning at 8:00 a.m. on January 26, 2020 until 8:00 a.m. on February 3, 2020. The temporary security zone would cover all navigable waters of Biscayne Bay from approximately Venetian Causeway south to and including a portion of the Miami River. The duration of the temporary security zone is intended to ensure the security of the public, executives, official party and surrounding waterway before, during, and after the various Super Bowl-related events in the Downtown area of Miami, Florida.

All persons and vessels are required to transit the security zone at a steady speed and may not slow down, stop, or anchor except in the case of unforeseen mechanical failure or other emergency. Any persons or vessels forced to slow or stop in the zone shall immediately notify the COTP Miami via VHF channel 16.

The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the security zone. The security zone will only affect a small area of Biscayne Bay near Bayfront Park in the Port of Miami for approximately eight days. Vessel traffic; however, will not be impeded by the temporary security zone. Vessels will be able to transit the security zone along the Intracoastal Waterway with the only restriction being the inability to stop or anchor within the zone. Moreover, upon activating the security zone, the Coast Guard will notify the local maritime community through various means including, Local Notice Mariners and Broadcast Notice to Mariners issued on VHF-FM marine radio channel 16.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and

preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a temporary security zone lasting approximately eight days that would prohibit vessels from stopping or anchoring

within the zone. Normally such actions are categorically excluded from further review under paragraph L60(a) in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures. A draft Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <https://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T07-0830 to read as follows:

§ 165.T07-0830 Security Zone; Super Bowl 2020, Bayfront Park, Miami, FL

- (a) Regulated Areas: The following is a temporary security zone:

- (1) All waters of Biscayne Bay within the following points: beginning at Point 1

in position 25°47'13"N, 80°11'6"W; thence east to Point 2 in position 25°47'13"N, 80°10'48"W; thence south to Point 3 in position 25°46'11"N, 80°10'48"W; thence west to Point 4 in position 25°46'11"N, 80°11'27"W; thence north to Point 5 in position 25°46'15"N, 80°11'27"W; thence east to Point 6 in position 25°46'15"N, 80°11'6"W; thence back to origin at Point 1.

(b) Definition: The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the security zone.

(c) Regulations:

(1) All persons and vessels are required to transit the security zone at a steady speed and may not slow down, stop, or anchor except in the case of unforeseen mechanical failure or other emergency. Any persons or vessels forced to slow or stop in the zone shall immediately notify the Captain of the Port Miami via VHF channel 16.

(2) Persons who must notify or request authorization from the Captain of the Port Miami may do so by telephone at (305) 535-4472, or may contact a designated representative via VHF radio on channel 16.

If authorization to anchor, or remain within the security zone is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or the designated representative.

(d) Enforcement Period: This rule will be enforced from 8:00 a.m. on January 26, 2020 through 8:00 a.m. on February 3, 2020.

Dated: October 31, 2019.

J. F. Burdian,

Captain, U.S. Coast Guard,

Captain of the Port Miami.

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